
CARMEL CITY CODE
CHAPTER 10: ZONING & SUBDIVISIONS
ARTICLE 1: ZONING CODE
CARMEL ZONING ORDINANCE
CHAPTER 28: NONCONFORMING USES & EXEMPTIONS

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28.00 Nonconforming Uses and Exemptions.

28.01 Legal Nonconforming Use Specifications.

A legal nonconforming use may be continued, although such use does not conform to all the provisions of this Ordinance, as hereinafter provided:

- 28.01.01 A legal nonconforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law. Existing residences in the various Business and Industrial Districts may be structurally altered and expanded.
- 28.01.02 A legal nonconforming use may be changed to another legal nonconforming use of the same restrictions, provided no structural alterations are made in the building. Whenever a legal nonconforming use has been changed to a conforming use, it shall not thereafter be changed to a legal or an illegal nonconforming use.
- 28.01.03 No building shall be erected upon any premises devoted to a legal nonconforming use, except in conformance with the applicable provisions of this Ordinance.
- 28.01.04 Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit or Improvement Location Permit has been heretofore issued, and the construction of which has commenced and has been diligently pursued within one (1) year of the date of issuance of such permit, and which entire building shall be completed according to such plans within three (3) years from the date of passage of this Ordinance.
- 28.01.05 In the event that a legal nonconforming use of any building or premises is discontinued for a period of one (1) year, the use of said building or premises shall thereafter conform to the applicable provisions of this Ordinance.
- 28.01.06 Existing uses eligible for special use approval shall not be considered legal nonconforming uses nor require special use approval for continuance but shall require special use approval for any alteration, enlargement or extension.
- 28.01.07 These provisions shall apply in the same manner to any use which may become a legal nonconforming use due to a later amendment to this Ordinance.

28.02 Illegal Nonconforming Use Specifications.

An illegal nonconforming use shall not be validated by the adoption of this Ordinance.

28.03 Nonconforming Use in a FP, FW or FF District.

A legal or illegal nonconforming use located in a FP, FW or FF District shall not be expanded or enlarged without a permit for construction from the Indiana Natural Resources Commission plus adherence to the appropriate restrictions herein.

28.04 Nonconformance Exemptions.

A building nonconforming only as to height, lot area or yard requirements may be altered or extended, provided that an extension meets all of the height, yard and other applicable provisions of this Ordinance.

28.05 Intermittent Use.

The casual, intermittent, temporary or illegal use of land, buildings or premises shall not be sufficient to establish the existence of a nonconforming use and the existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

28.06 Existence of a Nonconforming Use.

In circumstances where there is question whether or not a nonconforming use exists, it shall be considered a question of fact and shall be decided by the Board following public notice and a public hearing in accordance with the Rules of Procedure of the Board.

28.07 Exemptions.¹

The following structures and uses shall be exempt from the provisions of this Ordinance:

28.07.01 Wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water and the collection of sanitary sewage or surface water operated and/or maintained by a government entity or a public utility, including customary meter pedestals, telephone pedestals, distribution transformers and temporary utility facilities required during construction, whether any such facility is located underground or above ground, but only when such franchised utility facilities are located in a street right-of-way or in an easement less than twenty-five (25) feet in width. The provisions of this Ordinance shall be complied with on all private property and in easements twenty-five (25) feet in width and over.

28.07.02 Railroad tracks, rights-of-way signals, bridges and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.

28.07.03 Farms, as defined herein, are permitted in all districts. Dwellings and major (over 400 square feet) accessory buildings are subject to obtaining Improvement Location Permits for construction.

28.07.04 Nothing in this Ordinance shall prevent the restoration of a building or structure destroyed less than forty percent (40%) of its square footage at the time of such destruction (exclusive of the value of the lot) by explosion, fire, flood, earthquake, windstorm, act of God, riot or act of a public enemy, subsequent to the passage of this Ordinance; or shall prevent the continuance of the use, except an illegal nonconforming use, of such building, structure or part thereof, as such use existed

¹ Section 28.07 amended per Ordinance No. Z-470-05, §r.

at the time of such impairment of such building, structure or part thereof. All such restoration and construction shall be subject to the obtaining of an Improvement Location Permit, with the fees waived for the restoration of a building or structure destroyed less than forty percent (40%) and restored according to its state of existence prior to destruction. All restorations resulting in a divergence from original plans or restoring a building or structure destroyed forty percent (40%) or more shall be subject to obtaining an Improvement Location Permit and payment of fees.

28.07.05 All City of Carmel and Clay Township governmental facilities and buildings are exempt from the zoning requirements and procedures listed herein.

**CHAPTER 28: NONCONFORMING USES & EXEMPTIONS
AMENDMENT LOG**

Ordinance No.	Docket No.	Council Approval	Effective Date	Sections Affected
Z-470-05	04100026 OA	February 21, 2005	February 21, 2005	28.07.04 Winter 2005 v2